

House File 195

H-1089

1 Amend House File 195 as follows:

2 1. By striking everything after the enacting clause
3 and inserting:

4 <Section 1. Section 598.41D, Code 2011, is amended
5 to read as follows:

6 **598.41D Assignment of visitation or physical care**
7 **parenting time — parent serving active duty — family**
8 **member.**

9 1. Notwithstanding any provision to the contrary, a
10 parent who has been granted court-ordered visitation
11 with the parent's minor child may file an application
12 for modification of a decree or a petition for
13 modification of an order regarding child visitation,
14 prior to or during the time the parent is serving
15 active duty in the military service of the United
16 States, to temporarily assign that parent's visitation
17 ~~rights~~ to a family member of the minor child, as
18 specified by the parent. The application or petition
19 shall be accompanied by an affidavit from the family
20 member indicating the family member's knowledge of the
21 application or petition and willingness to exercise the
22 parent's visitation ~~rights~~ during the parent's absence.
23 The application or petition shall also request any
24 change in the visitation schedule necessitated by the
25 assignment.

26 2. Notwithstanding any provision to the contrary,
27 a parent who has been granted court-ordered physical
28 care or joint physical care of the parent's minor child
29 may file an application for modification of a decree
30 or a petition for modification of an order regarding
31 child custody, prior to or during the time the parent
32 is serving active duty in the military service of the
33 United States, to temporarily assign the parent's
34 physical care parenting time to a family member of
35 the minor child, as specified by the parent. The
36 application or petition shall be accompanied by an
37 affidavit from the family member indicating the family
38 member's knowledge of the application or petition
39 and willingness to exercise the parent's physical
40 care parenting time during the parent's absence.
41 The application or petition shall also request any
42 change in the physical care parenting time schedule
43 necessitated by the assignment.

44 2. 3. a. If the active duty of a parent affects
45 the parent's ability or anticipated ability to appear
46 at a regularly scheduled hearing, the court shall
47 provide for an expedited hearing in matters instituted
48 under this section.

49 b. If the active duty or anticipated active duty of
50 a parent prevents the parent from appearing in person

1 at a hearing, the court shall provide, upon reasonable
2 advance notice, for the parent to present testimony
3 and evidence by electronic means in matters instituted
4 under this section. For the purposes of this
5 paragraph, "electronic means" includes communication by
6 telephone, video teleconference, or the internet.

7 ~~3.~~ 4. a. The court may grant the parent's request
8 for temporary assignment of visitation or physical
9 care parenting time and any change in the visitation
10 or physical care parenting time schedule requested if
11 the court finds that such assignment of visitation or
12 physical care parenting time is in the best interest
13 of the child.

14 b. In determining the best interest of the child,
15 the court shall ensure all of the following:

16 (1) That the specified family member is not a sex
17 offender as defined in section 692A.101.

18 (2) That the specified family member does not have
19 a history of domestic abuse, as defined in section
20 236.2. In determining whether a history of domestic
21 abuse exists, the court's consideration shall include
22 but is not limited to commencement of an action
23 pursuant to section 236.3, the issuance of a protective
24 order against the individual or the issuance of a
25 court order or consent agreement pursuant to section
26 236.5, the issuance of an emergency order pursuant to
27 section 236.6, the holding of an individual in contempt
28 pursuant to section 664A.7, the response of a peace
29 officer to the scene of alleged domestic abuse or the
30 arrest of an individual following response to a report
31 of alleged domestic abuse, or a conviction for domestic
32 abuse assault pursuant to section 708.2A.

33 (3) That the specified family member does not have
34 a record of founded child or dependent adult abuse.

35 (4) That the specified family member has an
36 established relationship with the child and assigning
37 visitation or physical care parenting time to the
38 specified family member will provide the child the
39 opportunity to maintain an ongoing family relationship
40 that is important to the child.

41 (5) That the specified family member ~~is able~~
42 demonstrates an ability to personally and financially
43 support the child and will support the child's
44 relationship with both of the child's parents during
45 the assigned visitation or physical care parenting
46 time.

47 ~~4.~~ 5. An order granting assignment of visitation
48 rights or physical care parenting time under this
49 section does not create separate rights to visitation
50 or physical care parenting time for a person other than

1 the parent. An order granting assignment of visitation
2 or physical care parenting time under this section
3 does not grant any custodial or parental rights to any
4 person who is not the parent of the child.

5 6. An order granted under this section may
6 temporarily assign visitation or physical care
7 parenting time that is equal to or less than the
8 visitation or physical care parenting time awarded to
9 the parent whose visitation or physical care parenting
10 time is assigned.

11 ~~5.~~ 7. The parent whose visitation ~~rights are~~ or
12 physical care parenting time is temporarily assigned
13 shall provide a copy of the order granting assignment
14 of visitation or physical care parenting time to the
15 school and school district of the child to whom the
16 order applies.

17 ~~6.~~ 8. An order granting temporary assignment
18 of visitation ~~rights~~ or physical care parenting
19 time pursuant to this section shall terminate
20 upon notification of the court by the parent or
21 automatically upon the parent's completion of active
22 duty, whichever occurs first.

23 ~~7.~~ 9. After a parent completes active duty, if an
24 application for modification of a decree or a petition
25 for modification of an order is filed, the parent's
26 absence due to active duty or the assignment of
27 visitation ~~rights~~ or physical care parenting time does
28 not constitute a substantial change in circumstances,
29 and the court shall not consider a parent's absence due
30 to that active duty or the assignment of visitation
31 ~~rights~~ or physical care parenting time in making a
32 determination regarding the best interest of the child
33 relative to such an application or petition filed after
34 a parent completes active duty.

35 ~~8.~~ 10. As used in this section, "active duty"
36 means active military duty pursuant to orders issued
37 under Tit. X of the United States Code. However, this
38 section shall not apply to active guard and reserve
39 duty or similar full-time military duty performed by
40 a parent when the child remains in actual custody of
41 the parent.

42 11. As used in this section, "parenting time" means
43 actual time spent with the child as specified in a
44 decree or order, but does not include any other element
45 of legal custody, physical care, or joint physical
46 care.

47 Sec. 2. EFFECTIVE UPON ENACTMENT. This Act, being
48 deemed of immediate importance, takes effect upon
49 enactment.>

50 2. Title page, line 1, by striking <joint>.

J. TAYLOR of Woodbury